IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.481 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.Radhua Silk Mills P. Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 28TH MARCH, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> " Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that in the computation of the disallowance in respect of payments to employee directors the provisions of section 40(c) should be applied and not the provisions of section 40A(5) of the Income-tax Act as applied by the Income-tax Officer ? "

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)